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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/733,930	12/11/2003	Clemens Rickert	09210-US	8586
30689	7590	11/23/2005	EXAMINER	
DEERE & COMPANY ONE JOHN DEERE PLACE MOLINE, IL 61265			KOVACS, ARPAD F	
			ART UNIT	PAPER NUMBER
			3671	

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/733,930

Applicant(s)

RICKERT ET AL.

Examiner

Árpád Fábián Kovács

Art Unit

3671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 July 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 2-4, 5 & 15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
3. Claim 15 unclear, appears to recite, the “envelope”, subject matter already present in the claim 1 as now amended. Clarification is requested.
4. Claim 2, appears to claim the same feature as presented with the amended made to claim 1. It is noted that, if claim 2 is canceled it should not repeat the claim. Thus claim 6, should not have been repeated. Only the status of claim should be present. For examination purposes, claim 2 is considered to contain the same subject matter already present in claim 1.
5. In re claim 5, the recitation of “point is arranged beneath the inlet of the picking gap” is unclear, because the inlet was not defined as a horizontal plane.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-5, 7-17 are rejected under 35 U.S.C. 102(b) as being rejected by Rauch (6119443).

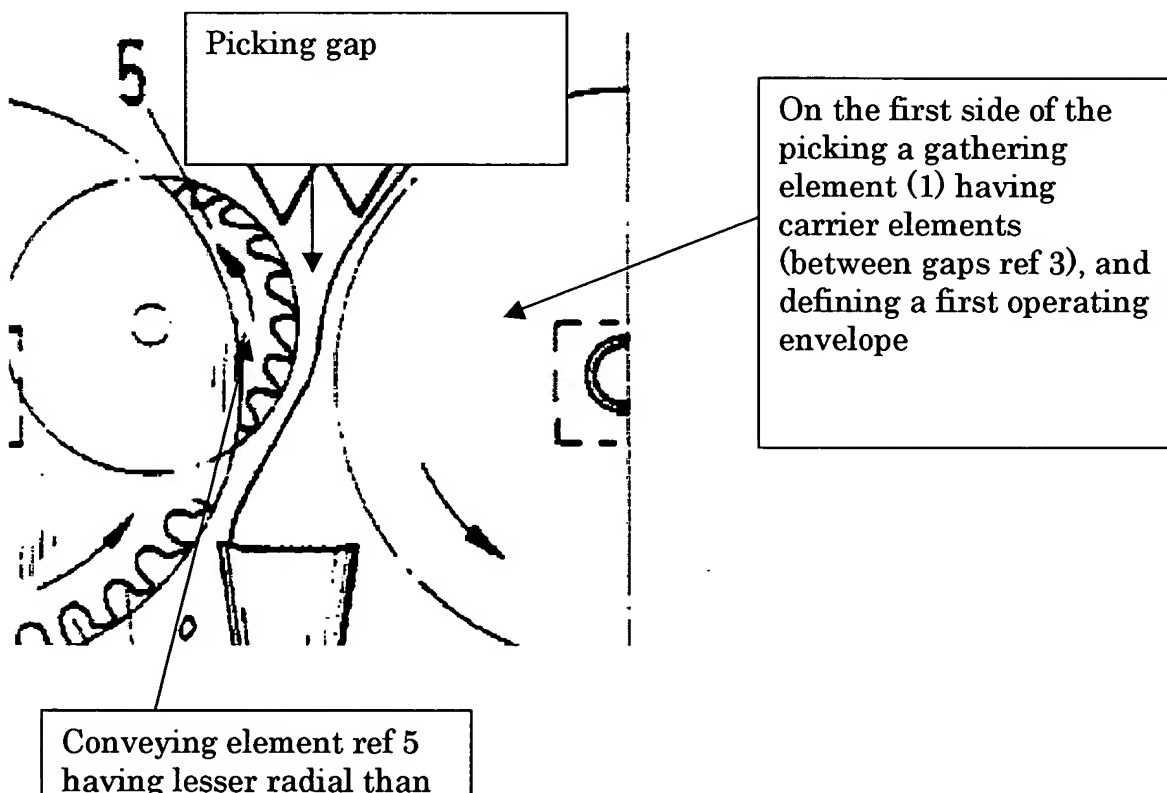
Prior art discloses:

cl. 1, 2:

picking gap / stripper plate / picking plates (7);

two parallel picking rollers / picking unit (10);

For greater see marked up drawings below:



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cl. 3-4:

the conveying element with teeth elements distributed circumferentially over a disk & pocket like recesses are formed between the elements (see fig 2);

cl. 5, 9-14:

at least one picking roll point beneath the picking gap, & the conveying element is arranged either below or above the picking gap and/or gathering element (see fig 1);

cl. 7-8:

the conveying is rotated inherently faster or approx. the same speed, it has smaller radial extension than the gathering element;

cl. 15:

the operating envelope terminates approx. at the inlet (see fig 2);

cl. 16-17:

the teeth are generally triangular & rounded.

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8. Claims 1-5, 7-8, 10, 12, 15 are rejected under 35 U.S.C. 102(b) as being rejected by Wolters et al. (US 2001/0003237 A1).

Wolters discloses:

cl. 1, 2, 15:

a gathering & picking device (10) comprising:

a picking gap (channel 26) defined by a stripper plate (snapping bars 24);

a gathering element (14) is arranged on a first side of the inlet (see fig 1) rotating about a vertical axis and having carrier elements (finger 44);

a conveying element (16) comprises a series of teeth (finger 46) rotating about the vertical axis and having a lesser radial extent than the carrier element (see fig 2);

the conveying element having a second operating envelope partially overlapping with a first operating envelope of the gathering element (see fig 1);

cl. 3, 4:

carrier elements distributed circumferentially over a disk & pocket like recesses are formed (see fig 6, disk ref 48);

cl. 5:

the picking unit comprises at least one picking roll (18) having a point arranged beneath the inlet of the picking gap (see fig 2);

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cl. 7, 8:

in paragraph 41, ln 11-13, teaches that the conveying & gathering (feeding) devices can be arranged in a staggered relationship, thus the rotation would be different (faster) and same (for example, when arranged coaxially as shown in fig 2);

cl. 10, 12:

the conveying element is below the picking gap & beneath the gathering element (fig 2);

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 9, 11, 13, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolters et al. (US 2001/0003237 A1).

Wolters discloses the claimed device except for the variety of arrangements outlined in claims 9, 11, 13, 14.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to arrange the conveying element in a variety of positions in relation to the gathering element, since it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

11. Claims 16, 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wolters et al. (US 2001/0003237 A1), in view of Rauch (6119443).

Wolters discloses the claimed device except for the design choice for the teeth as outlined in new claims 16, 17.

Rauch discloses that it is known in the art to provide a rounded triangular shaped conveying element (see rejection & drawing above).

It would have been obvious matter of design choice to one having ordinary skill in the art at the time the invention was made to design the teeth triangular and rounded, since applicant has not disclosed that solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with either triangular or longitudinal rectangular shape teeth or triangular & rounded as taught by Rauch.

Response to Arguments

12. Applicant's arguments with respect to claims 1-5, 7-15, new claims 16-17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

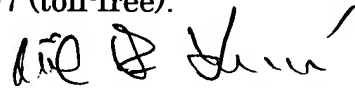
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Árpád Fábián Kovács whose telephone number is 571 272 6990. The examiner can normally be reached on Mo-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272 6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Árpád Fábíán Kovács
Primary Examiner
Art Unit 3671

ÁFK